

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT PETITION No.9644 of 2007

Between:

P. Narayana Swamy

... Petitioner

AND

The Government of India, rep., by its
Principal Secretary, External Affairs,
New Delhi and five others.

... Respondents

: ORDER :

Counsel for the petitioner : Shri Prattipati Venkateswarlu

Dated: 1st May, 2007

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Per C.V.NAGARJUNA REDDY, J.

In this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issue of a mandamus directing the respondents to take immediate action on the representations by interfering and for obtaining 'Sworn Pardon Affidavit' from Smt. B. Radha, wife of late Kumar Govardhan, resident of Mupkal Village, Armoor Mandal, Nizamabad District.

The petitioner claims to be a member of Beedi Workers Welfare Fund, Andhra Pradesh State Advisory Committee, Ministry of Labour and Employment, Government of India, New Delhi. He has averred that Kumar Govardhan, a native of Mupkal Village, Armoor Mandal, Nizamabad District and Darool Buchanna, son of Narsaiah, native of Kothapet Village, Raikal Mandal, Karimnagar District went to UAE, Sharjah as labourers; that both of them lived in a room; that in a quarrel that ensued between them, Darool Buchanna killed Kumar Govardhan and that the former was sentenced to death in December 2006 by a Sharjah Court, but the death penalty has not been executed so far. The petitioner has further averred that the Joint Secretary, Gulf – Haj Ministry of External Affairs, New Delhi in his letter dated 08.03.2007 informed the Special Chief Secretary to Home, Government of Andhra Pradesh, that the Sharjah Court imposed death penalty on Sri Buchanna in the year 2001 and that his sentence is yet to be carried out and that according to the information provided to the Indian Consulate by Sharjah authorities, the mercy petition of Sri Buchanna can be considered only if a pardon letter is obtained from the relatives of the victim Kumar Govardhan and that according to the information gathered by the Indian Consulate, the family members of

the victim are demanding financial compensation for giving the affidavit of pardon. Still further, the petitioner has averred that at the request of the Ministry of External Affairs, New Delhi, District Collector, Nizamabad deputed Revenue Divisional Officer, Nizamabad and in his turn, the Revenue Divisional Officer reported back by saying that the wife of the victim (respondent No.6) agreed to give 'Sworn Pardon Affidavit' if she is provided with Rs.3 lakhs to discharge her debts, a house site, widow pension and agricultural land by the Government, but the official respondents have not taken necessary steps to obtain the 'Sworn Pardon Affidavit' from respondent No.6, necessitating filing of this petition.

We have heard Sri Prattipati Venkateswarlu, learned counsel for the petitioner. In our opinion, the writ petition is wholly misconceived. In the first place, the petitioner has failed to make out his locus to maintain the writ petition. The averments contained in the affidavit filed in support of the writ petition did not depict any special interest of the petitioner in espousing the cause of Darool Buchanna or his family members. Therefore, we are not at all satisfied about the petitioner's locus to maintain the writ petition.

We are further of the view that this Court cannot issue a mandamus to compel the official respondents to obtain a Sworn Pardon Statement from respondent No.6. The petitioner has neither pleaded in the affidavit nor placed before this Court any statutory provision under which the State of Andhra Pradesh or its functionaries are charged with a duty to obtain the so called Sworn Pardon Affidavit from respondent No.6.

The law is well settled that in order to seek a writ of mandamus, the petitioner shall establish that there is a mandatory statutory duty cast on the official respondents and that they failed to carry out such a

duty. The petitioner has miserably failed to establish any such duty cast on any of the official respondents.

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.12250 of 2007 filed by the petitioner for interim relief is also dismissed.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

01-05-2007.

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